IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC. APPLICATION No 2472 of 1990
with
CRIMINAL MISC. APPLICATION No 2473 of 1990
with
CRIMINAL MISC. APPLICATION No 2474 of 1990
with
CRIMINAL MISC. APPLICATION No 2475 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES YES

2. To be referred to the Reporter or not? YES :

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO NO

5. Whether it is to be circulated to the Civil Judge? : NO NO

S.M.DATTA

Versus

STATE OF GUJARAT

Appearance:
MR SB VAKIL with MR PRANAV G DESAI for Petitioner
MR ST MEHTA APP for Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 07/04/2000

ORAL JUDGEMENT

1. These Miscellaneous Criminal Applications are filed by the same petitioner under Section 482 of the Code of Criminal Procedure for quashing the complaints and the process issued pursuant thereto in Criminal Cases Nos.193, 194, 195 and 196 of 1990 pending before the learned Judicial Magistrate, First Class, Gandhidham. The original complaints, identical except for the name of the worker involved, are filed by the Factory Inspector, Adipur, on the basis of his inspection visit to the factory of the company situated in Kandla Free Trade Zone, Gandhidham. The petitioner was the Vice Chairman of the company at the relevant time and he was admittedly the "occupier" under the Factories Act, 1948 (the Act, for short) of the aforesaid factory of the company.

2. The original complaints are filed in an identical preprinted form by filling the blanks, wherein it is alleged that, at the time of visit on 17.10.1989 at 6.00 p.m., a workman in Group 'C' was found to be working after the prescribed working hours in violation of Section 63 whereby the offence under Section 92 of the Act was committed. It is further stated in the complaint that the notice of periods of work in Form-14 prescribed the period of the shift to be 8.00 to 4.30 in which 12.00 to 12.30 was recess and thereafter 4.30 to 4.40 was again recess and 4.40 to 6.40 was shown as overtime. The workman was found to be working on duty at 6.00 p.m. Thus, it is alleged that, by requiring or allowing the adult worker to work in the factory otherwise than in accordance with the notice of periods of work and the entries made beforehand against his name in the register of adult worker, the provisions of Section 63 were violated and the offence punishable under Section 92 was committed. The present petitioner being the "occupier" was accordingly summoned by the order of the court which is under challenge in these petitions.

3 It is contended in the petition that the company of which the petitioner was the vice chairman at the relevant time had applied for specific exemptions from the provisions of the Act in order to enable itself to engage workers on overtime and such exemptions were granted in respect of some quarters. However, admittedly, such exemptions from the provisions of Sections 51, 52, 54, 55 & 56 of the Act were not granted and were not subsisting at the relevant time. But, according to the petitioner, the exemptions granted earlier showed that the workers of the factory in

question were engaged in a work of national importance. It is further pleaded that the overtime work being done was within the limits laid down in Rule 91 of the Rules framed under the Act and that the complaints were filed mala fide against the vice chairman as well as the manager with a deliberate intention of harassing the petitioner for alleged trifle offence. It is also pleaded that, prima facie, no offence is committed by the petitioner and hence the proceedings are required to be quashed.

4. During the course of arguments, learned senior counsel Mr.S.B.Vakil instructed by learned counsel Mr.P.G.Desai appearing for the petitioner has emphasised a few points with regard to the correct interpretation and application of Section 63 of the Act and also submitted a summary of his submissions. It is submitted that in considering whether there was violation of Section 63 of the Act, the de facto period of work for adults as prescribed in the notice displayed in the factory is relevant. There is no allegation that the time displayed in the notice contravened the provisions of Sections 51, 52, 53, 54, 55 56, 59 or 62 of the Act. Thus, it is contended that even if the workmen were found to be working overtime, they were working during the period notified for the purpose and hence there was no violation of Section 63. It is further submitted that Section 62 of the Act does not provide for any entry of overtime work to be made beforehand against the name of any adult worker in the register of adult workers. Thus, it cannot be said that the workers were required or were allowed to work otherwise than in accordance with any entry made beforehand. On these premises, it is contended that the requirements of both the limbs of Sections 63 were not fulfilled so as to constitute an offence under it and, if the alleged offence was not disclosed, the process ordered by the learned Magistrate would be required to be quashed.

5. Section 63 of the Act reads as under:

> "63. Hours of work to correspond with notice under Section 61 and register under Section 62: No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory."

As the title and the wording of Section 63 clearly

suggests, the prohibition is clearly dependent upon the provisions of Sections 61 and 62, the relevant part of which reads as under:

"61. Notice of periods of work for adults:

(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the following provisions of this section, and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 51, 52, 53, 54, 55, 56 and 58.

(3) to (7) xxx xxx xxx

(8) The State Government may prescribe forms of the notice required by sub-section (1) and the manner in which it shall be maintained.

(9) xxx xxx xxx

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

62. Register of adult workers.

(1) The manager of every factory shall maintain a register of adult workers to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing-

(a) the name of each adult work in the factory;

(b) the nature of his work;

(c) the group, if any, in which he is included;

(d) where his group works on shifts, the relay to which he is allotted; and

(e) such other particulars as may be prescribed.

Provided that, if the Inspector is of opinion that any muster roll or register maintained as a part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall to the corresponding extent be maintained in place of, and be treated as, the register of adult workers in that factory.

(1A) No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of adult workers.

(2) The State Government may prescribed the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved."

6. Thus, according to the Scheme of the Act regarding the period of work, the notice fixing beforehand the working hours is prescribed and such periods of work to be prescribed are required to be in consonance with the provisions of Sections 51, 52, 54, 55, 56 and 58 of the Act. Out of these provisions, the following would be relevant for the present purpose:

"Sec.51: Weekly hours-
No adult workers shall be required or allowed to work in a factory for more than forty-eight hours in any week.

Sec.54: Daily hours -
Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day;

Provided that subject to the previous approval of the Chief Inspector, the daily maximum hours specified in this section may be exceeded in order to facilitate the change of shifts."

7. A conjoint reading of these relevant provisions

clearly indicates that normally an adult worker is prohibited from working in any factory for more than forty-eight hours in a week and for more than nine hours in a day as also beyond the shift where his group works on shifts. The actual working hours and the shifts as also the intervals for rest and spreadover are required to be fixed beforehand in the prescribed manner and notified by a notice, and where a worker is required or allowed to work otherwise than in accordance with such notice and an entry made beforehand against his name in the register, it violates the prohibition under Section 63 for which the 'occupier' as well as the 'manager' of the factory shall each be guilty of the offence punishable under Section 92 of the Act. Section 92 reads as under:

"92. General penalty for offences:
Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rule made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees or with both, and if the contravention is continued after conviction, with a further fine which may extend to one thousand rupees for each day on which the contravention is so continued.

Provided that....."

8. Analysing the provisions of Section 63, it is vehemently argued that the section consists of two parts and the necessary ingredients of both must be clearly alleged in the complaint to proceed further against the accused. In other words, it has to be shown that a worker was working otherwise than in accordance with the notice of periods of work and that he was working otherwise than in accordance with the entries made beforehand against his name in the register of adult workers; as both the parts are cumulative and not disjunctive. The complaint shows the periods of work to be from 8.00 to 4.40 and also shows the hours from 4.40 to 6.40 as overtime and it does not show as to how the worker was working otherwise than in accordance with the entries made beforehand against his name in the register. Thus, a subtle attempt is made to show a lacuna in the complaint. It is true that the complaint is filed in a

preprinted form filling up the gaps by hand. However, it is clearly stated in the complaint that on 17.10.1989, the register maintained in Form-28 showed presence of the worker in 'C' shift and the notice of periods of work in Form-14 showed the working hours as well as the hours of overtime. It is also clearly alleged that the worker was required or allowed to work otherwise than in accordance with the notice of periods of work and the entries made beforehand against his name in the register. As held by the Hon'ble Supreme Court in SATISH MEHTA v. DELHI ADMINISTRATION [1996 (3) Crimes 85 (SC) / 1996 GLR 50], in the context of discharge under Section 227 of the Code of Criminal Procedure, the standard of proof normally adhered to at the final stage is not to be applied at the stage where scope of consideration is whether there is sufficient ground for proceeding against the accused. In the facts of this case, prima facie, it cannot be said that the necessary ingredients to constitute the offence under Section 63 are not even alleged and during the course of the trial cannot be established by necessary proof. Therefore, the argument that there cannot be any question of trial of an office which is not likely to be established beyond doubt, cannot be accepted as applicable to this case.

9. The following judgments cited on behalf of the petitioners to submit that the process ordered to be issued by the learned Magistrate is required to be quashed on the ground of the complaint not disclosing the offence, are not applicable in the facts of this case. In AIR 1977 SC 1754 (DR.SHARDA PRASAD SINHA v. STATE OF BIHAR), on a New Year eve, a cabaret dance with women was alleged to be in progress in the part of a club where liquor was being consumed by public and a complaint under Section 54 (1) (a) read with Sections 25 (2) and 57 (c) of the Bihar and Orissa Excise Act was filed. The complaint did not aver that either of the two women who were performing the cabaret was employed or permitted to be employed by the club or that liquor was being consumed by the public in the part of the club in which the cabaret dance was being performed. It was therefore held that the allegations contained in the complaint did not constitute the offence and the High Court ought not to have rejected the application for quashing the proceedings. In AIR 1978 SC 1590 (P.VIJAYPAL REDDY v. THE STATE (GOVT. OF INDIA), it is clearly held that the inherent powers under Section 482 of the Cr.P.C. can be invoked and exercised only when the facts alleged in the complaint, if they are accepted to be correct at their face value, do not make out an offence with which the accused is charged. In AIR 1983 SC 67 (MUNICIPAL

CORPORATION OF DELHI v. RAM KISHAN ROHTAGI), it is observed that for exercising the power under Section 482 of the Cr.P.C., the test is that taking the allegations and the complaint as they are, without adding or subtracting anything, if no offence is made out then the High Court will be justified in quashing the proceedings. In AIR 1989 SC 2222 (STATE OF U.P. v. R.K.SRIVASTAVA) it is reiterated that if the allegations made in the FIR, taken at their face value and accepted in their entirety do not constitute an offence, the criminal proceedings instituted on the basis of such FIR should be quashed. In (1996) 6 SCC 263 (SHATRUGHNA PRASAD SINHA v. RAJBHAU SURAJMAL RATHI), the complaint did not contain any of the allegations constituting the offence of defamation punishable under Section 500 of the Indian Penal Code and consequently it was held that the Magistrate was not justified in issuing the process. However, in respect of another complaint, it was observed that the Magistrate had, prima facie, come to the conclusion that the allegations might come within the definition of "defamation" under Section 499 of the IPC and could be taken cognizance; and in that case, quashing of the complaint was held to be not warranted.

10. The second related submission of the learned counsel that the process is issued without application of mind to the relevant facts has also to be repelled in view of the finding that, prima facie, there are sufficient allegations and grounds on the basis of which the process could be issued. The learned counsel has relied upon the judgment in LALIT MOHAN MONDAL v. BENOYENDRA NATH CHATTERJEE (AIR 1982 SC 785) to point out that it was incumbent upon the High Court to apply its mind as to whether or not there was a fit case for filing a complaint and it was not sufficient to merely indicate that it was not a fit case for invoking the inherent power. The judgment in PUNJAB NATIONAL BANK v. SURENDRA PRASAD SINHA (AIR 1992 SC 1815) is relied upon to canvass that the learned Magistrate was duty bound, before issuing the process, to find out whether the accused concerned was legally responsible for the offences charged. It was found in that case that the complainant had abused the process by filing complaint against all the accused without any prima facie case to harass them for vendetta. However, in the facts of the present case, a prima facie case is made out and the first necessary condition to set the criminal law in motion appears to have been satisfied. Hence, the said judgment does not apply in the facts of the present case. A specific reference is also made to the observations of the Hon'ble Supreme Court in para 28 of the judgment in PEPSI FOODS

LTD. v. SPECIAL JUDICIAL MAGISTRATE [JT 1997 (8) SC 705], which reads as under:

> "Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused."

11. Relying on the judgment of the Andhra Pradesh High Court in SECUNDERABAD HEALTH CARE LTD. v. SECUNDERABAD HOSPITALS PVT. LTD. [(1999) 96 Company Cases 106], it is submitted that the requirement in law is that there must be clear, unambiguous and specific allegations against the persons who are impleaded as accused that they were in charge of and responsible to the company in the conduct of its business at the material time when the offence was committed by the company. In that case, the petitioners-directors were accused of having committed the offence under Section 138 of the Negotiable Instruments Act even though they had not issued the cheques in question. The only question arising for consideration was whether such directors can be held to be liable for the offence, if any, committed by the company. It was found that the complaint did not disclose anything against such directors and there was no allegation that they were in charge of and were responsible to the company for the conduct of its business at the relevant time. In this context, it is held that every director of a company is not automatically vicariously liable for the offences committed by the company. On this basis, it is argued in

this case that, in absence of a clear, unambiguous and specific allegation against the person impleaded as accused that he was in charge of and responsible to the company for the conduct of its business at the material time, the process cannot be issued on the basis of imagination of the complainant. It is further submitted that the learned Magistrate was required under the law to pass order reflecting application of mind as setting the criminal law in motion is fraught with serious consequences. It has to be noted that in the facts of the present case, the petitioner was admittedly the "occupier" under the Act at the relevant time and, as discussed earlier, the necessary allegations are found in the complaint. When sufficient material and allegations are found in the complaint, it can safely be inferred that the processes were ordered to be issued after proper application of mind even though such application might not reflect in so many words in the order under challenge. The aforesaid observations of the Andhra Pradesh High Court cannot have any application in a case punishable under Section 92 of the Act where the occupier and the manager of the factory would each be responsible for an offence committed by contravention of any of the provisions of the Act or any Rule made thereunder.

12. It is further contended on behalf of the petitioner that "occupier" as defined in Section 2 (n) of the Act is a person who has ultimate control over the affairs of the company; whereas, 'manager" as defined in Rule 2 (m) is the person who is responsible to the 'occupier' for the working of the factory for the purposes of the Act. It is submitted that the manager discharges the day-to-day functions of the factory and is responsible for ensuring compliance with the requirements prescribed under the Act. The responsibility of fixing the periods of work during which a group may be required to work under Section 61 and that of maintaining the register under Section 62 of the Act are cast upon the manager of the factory, and in the instant case, the manager is being prosecuted for the same offence alleging the same violations. It is submitted that, therefore, no purpose can be served by prosecuting the petitioner also as the 'occupier'. The learned counsel has relied upon the judgment of the Bombay High Court in STATE OF MAHARASHTRA v. SAMPATLAL MENSUKH BOTHARA [(1992) 1 LLJ 107] in support of this submission. In the facts of that case, the question was whether the occupier was liable to be prosecuted for failure to maintain registers under Sections 62 and 83 of the Act; and the finding was that the obligation to maintain registers was imposed upon the manager and not on the occupier. It may be

apposite here to refer to the definition of "occupier" in Section 2 (n) and to other related provisions of the Act. Section 2 (n) reads as under:

"2 (n) "occupier" of a factory means the person who has ultimate control over the affairs of the factory-

Provided that -

(i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier;

(ii) in the case of a company, any one of the directors shall be deemed to be the occupier;

(iii) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority, as the case may be, shall be deemed to be the occupier;

Provided further that....."

Section 7 of the Act provides for sending to the Chief Inspector a written notice in which the name and address of the occupier is to be mentioned. Section 7-A of the Act prescribes the general duties of the occupier which include ensuring the health, safety and welfare of all workers while they are at work in the factory. The extent of such duty includes the provision, maintenance or monitoring of such working environment in the factory for the workers that is safe, without risks to health and adequate as regards facilities and arrangements for their welfare at work. In order that one of the directors, in the case of a company, is held responsible as the "occupier", the provision of sending his name by a written notice is made in Section 7 of the Act.

As noted earlier, by virtue of the provisions of Section 92 where in respect of any factory there is any contravention of any of the provisions of the Act or any Rules made thereunder, the 'occupier' and the 'manager' of the factory would each be guilty of the offence and

hence statutorily liable to be proceeded against.

13. In view of the aforesaid clear provisions of the Act and the obligations cast upon the 'occupier', the petitioner cannot be allowed to shift the burden of facing the prosecution on to the manager on the ground that the manager is also arraigned for the same offence.

14. The learned Additional Public Prosecutor appearing for the State Government has relied upon the following observations of the Apex Court in RAJESH BAJAJ v. STATE NCT OF DELHI (1999 Cri.L.J. 1833):

> "It is not necessary that a complainant should verbatim reproduce in the body of his complaint all the ingredients of the offence he is alleging. Nor is it necessary that the complainant should state in so many words that the intention of the accused was dishonest or fraudulent. Splitting up of the definition into different components of the offence to make a meticulous scrutiny, whether all the ingredients have been precisely spelled out in the complaint, is not the need at this stage. If factual foundation for the offence has been laid in the complaint the Court should not hasten to quash criminal proceedings during investigation stage merely on the premise that one or two ingredients have not been stated with details. For quashing an FIR (a step which is permitted only in extremely rare cases) the information in the complaint must be so bereft of even the basic facts which are absolutely necessary for making out the offence. In State of Haryana v. Bhajan Lal (1992 AIR SCW 237) this Court laid down the premise on which the FIR can be quashed in rare cases. The following observations made in the aforesaid decisions are a sound reminder (para 109 of AIR):
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> > "We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an

arbitrary jurisdiction on the Court to act according to its whim or caprice".

It is further pointed out, relying upon the judgment in AIR 1964 SC 1893 (STATE OF GUJARAT v. KANSARA MANILAL BHIKHALAL) that, where an occupier or a manager is charged with an offence, he is entitled to make a complaint in his own turn against any person who was the actual offender which shows that compliance with the peremptory provisions of the Act is essential and unless the occupier or the manager brings the real offender to book, he must bear the responsibility. The responsibility exists without a guilty mind. The following observations in the judgment in STATE v. BAIJNATH BALSARAI [1961 (2) GLR 717], are also relied upon:

"Section 63 requires that the hours of work during which an adult worker may be required or allowed to work in a factory should correspond with the periods of work mentioned in the notice displayed in the factory under Section 61. If an adult worker is required or allowed to work in a factory during hours which do not correspond with the periods of work mentioned in such notice, there would be contravention of the provisions of section 63. Section 63 has to be read along with section 61; both these sections deal with the same subject matter, namely, periods of work during which adult workers may be required or allowed to work in a factory. Section 61 provides that the periods of work must be fixed by the management and a notice showing the periods of work must be displayed and correctly maintained in the factory while section 63 enjoins correspondence between the hours of work during which adult workers are required or allowed to work in the factory and the periods of work mentioned in such notice. Sections 61 and 63 deal with a totally different subject matter from that dealt with by sections 51, 54 and 59. It may be that in a given case a worker may be required or allowed to work in a factory during hours exceeding the periods of work specified in the notice displayed under sections 61 and there might thus be contravention of the provisions of section 63 and yet there might be no contravention of the provisions of sections 51 and 54 so as to attract the applicability of section 59..... and further the learned Magistrate was clearly in error in holding that inasmuch as the respondent had paid extra wages

to the workers for the overtime work taken from them, there was no contravention of the provisions of section 63."

It is further observed that:

"If we have regard to these principles, it will be clear that mens rea is not an essential element in the offence resulting from the contravention of section 63. Factory Act, 1948 is a piece of social welfare legislation and has been passed for the purpose of improving the conditions of work and ameliorating the lot of workers working in factories.....The obligation under section 63 is in absolute and unqualified terms and if the doctrine of mens rea were introduced, the whole object of providing a restriction such as that contained in section 63 would be defeated. The obligation contained in section 62 is an obligation which must be obeyed on pain of penalty for it is only by putting such a construction that the provision can be rendered effective for its avowed purpose which is to ameliorate the lot of workers working in factories. We are, therefore, of the opinion that having regard to the object of the Act and the subject-mater with which it deals, the obligation under section 63 is absolute and there is no scope for the application of the doctrine of mens rea."

Thus, it is held by the Division Bench of this court that the obligation under section 63 is absolute and unconditional and if there is any contravention of the provisions of section 63, the offender is guilty of the offence under section 92, whether he had the knowledge of wrong doing or not.

15. It is lastly submitted on behalf of the petitioners that in the peculiar facts and circumstances of this case, by lapse of a long time after the alleged offence, the situation is substantially changed insofar as production in the garments unit in the factory is closed from 1994, the workmen concerned are no longer in the employment of the company and no evidence and/or records have either been provided by the complainant or are available to the petitioner who has since retired from the service of the company. It is submitted that, therefore, the agony of the petitioner ought not to be prolonged in the interest of justice when the culmination of the complaint can at best result in levy of fine; and

no useful purpose would be served by further proceeding with the matter. The learned counsel has also relied upon the judgment of this court in STATE OF GUJARAT v. PRAFULCHANDRA S. SHAH [1996 (2) GLR 272] wherein the accused was acquitted by the trial court and upon finding the acquittal to be without any substance, the court proceeded to decide the question of just and proper sentence. In this context, the court observed that there can never be a precedent on the point of sentence and taking into consideration the minimum sentence provided for the offence and the lapse of about nine years, the accused was sentenced to pay the minimum fine of Rs.500. It has to be noted that the offence in that case was committed before amendment of section 92 with effect from 1.12.1987. In the facts of the present case, the more stringent provisions after the amendment are applicable and it also has to be borne in mind that the present petitions are filed with a prayer to quash the proceedings at the initial stage. It cannot be presumed that by passage of time, the evidence to prove the charges must have been lost and for such reasons, the criminal proceedings cannot be quashed. This court cannot put a premium on the delay caused in the disposal of cases due to several reasons. Suffice it to observe that the enormous loss, hardships and difficulties caused by the prolonged pendency of cases is indeed unfortunate and regrettable.

16. In the result, this court does not find any valid and sufficient reasons to quash, in exercise of the powers under Section 482 of the Cr.P.C., the impugned orders of issuing process against the petitioner. The petitions are, therefore, rejected with no order as to costs. Rule is discharged. Interim relief stands vacated. The Criminal Cases Nos.193, 194, 195 and 196 pending before the learned Judicial Magistrate, First Class, Gandhidham (Kutch) shall be proceeded further as expeditiously as possible in accordance with law.

17. After the judgment is pronounced, the learned counsel for the petitioner makes a request to stay the order as above for a period of four weeks. The request is granted and the order shall not be implemented for a period of four weeks from today.

(KMG Thilake)

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